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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,692	09/09/2003	Jeffrey J. Plummer	913/41267	2310
279	7590	10/05/2005	EXAMINER	
TREXLER, BUSHNELL, GIANGIORGI, BLACKSTONE & MARR, LTD. 105 WEST ADAMS STREET SUITE 3600 CHICAGO, IL 60603			WATSON, ROBERT C	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/658,692	Applicant(s) PLUMMER, JEFFREY J.	
	Examiner Robert C. Watson	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8, 13-15, 20 and 21 is/are rejected.
- 7) ☒ Claim(s) 4-7, 9-11 and 16-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/14/05 & 9/7/04</u> . | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 8, 13-15, 20, and 21 are rejected under 35 U.S.C. 102(a) as being anticipated by Current Tools Manual (model 8890 & model 8090).

In Current Tools Manual Figure 14c on page 14 shows a cable puller mounted to an adapter (identified in the manual as a “puller mount”) by vise chains. The adapter is mounted on a wheeled carriage. The top of the first and second spars and rib constitute a flat surface. In the manual “06/03 – Rev 0” is presumed by the examiner to be a publication date of June 2003.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 -3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Lucas and Ensley.

Jones shows an assembly including a cable puller 17, a carriage 13, and an adapter 16,16 mounted on the carriage having a frame onto which the cable puller is mounted. The adapter has spaced apart spars 16 with at least one rib spacing the spars apart from each other. Jones does not specify what type of clamping or fastening means is employed to mount the cable puller onto the adaptor frame.

Ensley teaches that a vise chain may be used to clamp/fasten a cable puller to a support or frame.

To mount/fasten the cable puller of Jones to the adaptor frame by means of a chain vise would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Ensley. One of ordinary skill in the art would have been motivated to do this in order to provide a convenient means to mount/fasten the cable puller to the adaptor frame.

Lucas teaches that a cable puller carriage may have wheels.

To provide wheels for the cable puller carriage of Jones would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Lucas. One of ordinary skill in the art would have been motivated to do this in order to provide a convenient way of transporting the carriage along the ground.

Claims 4-7, 9-11, and 16-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's remarks in the communication of 9/22/05 have been carefully considered. Applicant in particular alleges that the Ensley reference is a narrow teaching of mounting a cable puller by chains to a tube and that there is no teaching of using chains to mount the cable puller to another shape of support. The examiner finds this position to be untenable. Ensley does not limit his disclosure to a narrow teaching of mounting a cable puller by chains to a tube. Claims 1 and 2 of Ensley merely recite that the cable puller chains is mounted to a "supporting member". It is

Art Unit: 3723


the examiner's position that this supporting member could be any shape that is capable of being engaged by chains.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 571 272-4498. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rcw



ROBERT C. WATSON
PRIMARY EXAMINER